

BZA 3-28-72 Henry

(relating) BZA 6-27-72 approval, only to street
or alley dedication

BZA 6-72 - Dwain O. Kester request
Exception for used carlot at Se
corner of 25th and Arkansas

POSTED

3-1-72

V.M.A.F. 300

V.C.I. 200

C.H. 11-15-74

BZA 3-28-72 Deny

(rehearing) BZA 6-27-72 approve, subj to street
or alley dedication

BZA 6-72 - Dwain O. Kester request
Exception for used car lot at Se
corner of 25th and Arkansas

September 27, 1974

Mr. Richard A. Loyd
200 East First Street
Wichita, Kansas 67202

Subject: Case No. BZA 6-72 -
Request for Exception

Dear Mr. Loyd:

Upon reviewing some of the older Board of Zoning Appeals case files, it was noted that the Resolution adopted by the Board on June 27, 1972, in connection with your request for an exception to permit the installation of a used car lot, on property zoned "LC" Light Commercial, and generally located at the southeast corner of 25th and Arkansas had not been forwarded to you.

Apparently the Resolution was being held pending receipt of a letter from the Department of Public Works, which has not been received, stating that satisfactory arrangements have been made for closure of the first drive south of 25th Street.

A recent field check of subject property revealed that the drive has been closed and all other conditions of approval seem to have been complied with. I am therefore enclosing the Resolution which reflects the official action of the Board and sets out the conditions of approval. It is forwarded to you for your information and files.

Mr. Richard A. Loyd
September 27, 1974

If you have any questions concerning this matter, please call
our office.

Sincerely,

Larry Dobson
Assistant Secretary

LD:js
Attachment

cc: Dwain O. Kester, 2651 N. Arkansas 67204
Robert Feldner, Superintendent of Central Inspection
Ralph Eberly, City Clerk
Joe Donnelly, Central Inspection

RESOLUTION NO. BZA 6-72

WHEREAS, Dwain O. Kester, 2651 North Arkansas, Wichita, Kansas, requests an exception as provided in Section 2.12.590.C, Code of the City of Wichita, to permit the installation of a used car lot on property zoned "LC" Light Commercial and legally described as follows:

Lots 181, 183, 185, 187, 189, 191, on Arkansas Avenue, Rosenthal's Subdivision of Meyers and Snyders Outlots to Wichita, Kansas. Generally located at the southeast corner of 25th and Arkansas.

WHEREAS, proper notice as required by ordinance and by the Rules of the Board of Zoning Appeals has been given; and

WHEREAS, the Board of Zoning Appeals did, at the meeting of March 28, 1972, consider said application and its action was to deny the request; and

WHEREAS, in accordance with Article VIII of the Rules and Regulations of the Board, the applicant's attorney requested a rehearing because of new evidence; and

WHEREAS, the Board of Zoning Appeals did, at the meeting of June 27, 1972, reconsider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for an exception under the provisions of Section 2.12.590.C, Code of the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has authority to permit a used car lot operation on property zoned "LC" Light Commercial, subject to the conditions outlined in Section 28.04.183.2, Code of the City of Wichita.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, that this application be approved to permit the installation of a used car lot on property zoned "LC" Light Commercial, and legally described as follows:

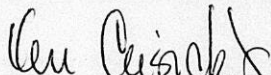
Lots 181, 183, 185, 187, 189, 191, on Arkansas Avenue, Rosenthal's Subdivision of Meyers and Snyders Outlots to Wichita, Kansas. Generally located at the southeast corner of 25th and Arkansas.

subject to the following conditions:

1. Dedication by separate instrument of the west 20 feet and the north 7 feet of subject property for street purposes and the east 5.8 feet of subject property for alley purposes.
2. Any future structures placed or erected on subject property shall maintain a 35 foot setback from Arkansas Avenue and a 20 foot setback from 25th Street.
3. All storage and display areas, including all ingress and egress areas, shall be paved with concrete, asphalt, or other comparable material.
4. All lights shall be shielded to reflect or direct light away from adjacent property. No string-type lighting or banners shall be permitted.


5. No sign shall exceed 25 feet in height or be placed so as to project over any public right-of-way.
6. No sound projecting devices or loudspeakers shall be used so as to be heard outside of any structure.
7. No repair work shall be conducted except in an enclosed building and further provided that no body or fender work is done.
8. All parking areas shall have adequate guards to prevent the extension or overhanging of vehicles beyond property lines.
9. The areas shall be properly policed through inspections by the owner or operator for proper maintenance and removal of trash.
10. A six to eight foot high solid wall of masonry, architectural tile, staggered or louvered redwood, or rough sawed cedar, shall be constructed along the new alley right-of-way line adjacent to the east.
11. The applicant shall contact the Department of Public Works and obtain a letter stating that satisfactory arrangements have been made for closure of the first drive south of 25th Street, a copy of which shall be submitted to the Secretary of the Board of Zoning Appeals.
12. The applicant shall submit revised copies of the plot plan to the Traffic Engineer for his approval. Said plan shall indicate the new street and alley rights-of-way lines required in Condition 1, setback lines as indicated in Condition 2, fencing required in Condition 10, the location and dimension of the required 10 customer and employee parking spaces and the closure of the curb return as required in Condition 11. Two copies of the approved plan shall be submitted to the Secretary of the Board of Zoning Appeals.
13. The applicant shall install all improvements required by the Board prior to the occupancy of the site for a used car sales lot.

ADOPTED AT WICHITA, KANSAS, this 27th day of June, 1972.



Kenneth M. Cusick, Chairman

ATTEST:



Jack H. Galbraith, Secretary

DEDICATION

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, the receipt of which is hereby acknowledged, the undersigned, Dwain O. Kester, 2651 North Arkansas, Wichita, Kansas 67204,

being the owner of the following described real estate in Sedgwick County, Kansas, to wit:

The North 7 feet of Lot 191 and the West 20 feet of Lots 181, 183, 185, 187, 189, 191, on Arkansas Avenue, Rosenthal's Subdivision of Myers and Snyders Outlots to Wichita, Kansas

does hereby dedicate the above described real estate to the public for street right-of-way purposes.

Executed this 7th day of July 1972.

Dwain O Kester
Dwain O. Kester

STATE OF KANSAS)
SEDGWICK COUNTY)ss

BE IT REMEMBERED, that on this 7th day of July, 1972, came Dwain O. Kester

to me personally known to be the same person who executed the foregoing instrument and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, the day and year last above written.

Submitted to the Wichita-Sedgwick County Metropolitan Area Planning Commission and the Board of Commissioners of the City of Wichita, Kansas, and approved by said Board of Commissioners of the City of Wichita, Kansas,

this _____

City Clerk

Carolyn Fountain
Notary Public
Carolyn Fountain

My Commission Expires: 5-7-75

DEDICATION

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, the receipt of which is hereby acknowledged, the undersigned, Dwain O. Kester, 2651 North Arkansas, Wichita, Kansas 67204,

being the owner of the following described real estate in Sedgwick County, Kansas, to wit:

The east 5.8 feet of Lots 181, 183, 185, 187, 189, 191 on Arkansas Avenue, Rosenthal's Subdivision of Myers and Snyders Outlots to Wichita, Kansas

do es hereby dedicate the above described real estate to the public for alley right-of-way purposes.

Executed this 7th day of July 19 72.

Dwain O. Kester
Dwain O. Kester

STATE OF KANSAS)
SEDGWICK COUNTY)^{ss}

BE IT REMEMBERED, that on this 7th day of July, 1972,
came Dwain O. Kester

to me personally known to be the same person who executed the foregoing instrument and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, the day and year last above written.

Submitted to the Wichita-Sedgwick County Metropolitan Area Planning Commission and the Board of Commissioners of the City of Wichita, Kansas, and approved by said Board of Commissioners of the City of Wichita, Kansas,

this _____

City Clerk

Carolyn Fountain
Notary Public
Carolyn Fountain

My Commission Expires: 5-7-75

WICHITA-SEDGWICK COUNTY

DATE 6-12-72

METROPOLITAN AREA PLANNING DEPARTMENT

TO Board of Zoning Appeals
FROM Jack H. Galbraith *J.H.G.*
SUBJECT Case No. BZA 6-72 - request for an exception to permit the installation of a used car lot on property zoned "LC" Light Commercial, generally located at the southeast corner of 25th and Arkansas

At your meeting of March 28, 1972, you considered the above captioned case. Your action was to deny the request.

We have been contacted by Richard Loyd, the applicant's attorney, who advises that the Waco-Finn Council has changed its position on this case. Inasmuch as they originally recommended that the case not be approved, and since they are now in favor of the request, Mr. Loyd has requested a rehearing. Based on this change in position, the secretary has granted a rehearing in accordance with Article VIII of the Rules and Regulation of the Board.

Attached are copies of Mr. Loyd's letter requesting the rehearing, Mr. Hendrix' letter stating the change in position of the Waco-Finn Council, the original Secretary's Report and your minutes previously considering this case.

JHG:gw

Attachments

cc: Mr. Richard A. Loyd, 200 East First Street 67202
Mr. Stan Hendrix, Chairman, Waco-Finn Model Cities Council,
2617 Wellington Place 67204

June 28, 1972

Mr. Richard A. Loyd
200 East First Street
Wichita, Kansas 67202

Subject: Case No. BZA 6-72 (Request for Rehearing)

Dear Mr. Loyd:

The Board of Zoning Appeals, at its regular meeting of June 27, 1972, reconsidered the above captioned case. Their action was to approve your request subject to the thirteen conditions listed in the Secretary's Report.

It is necessary that you comply with Condition (1), (11) and (12) prior to our forwarding to you a copy of the Resolution. Regarding condition No. (1), attached are two dedications which should be executed and returned to our office. Concerning Condition No. (11), it is necessary that you contact the Department of Public Works and make satisfactory arrangements for the closing of the first drive south of 25th Street and submit a copy of a letter from them stating that such arrangements have been made. Also, regarding Condition No. (12), it is necessary that you submit two revised copies of the plan, complying with the conditions listed in Condition No. (12).

At such time as these three conditions are complied with, we will forward to you a copy of the Resolution. If you have any questions concerning this matter, please contact our office.

Very truly yours,

Jack H. Galbraith
Secretary

JH:gv
cc: Dwain O. Kester, 2651 N. Arkansas 67204
Stan Hendrix, Chairman, Waco-Finn Model Cities Council,
2617 Wellington Place 67204
Robert Feldner, Superintendent of Central Inspection
Ralph Eberly, City Clerk
Joe Donnelly, Central Inspection

6-12-72

Board of Zoning Appeals

Jack H. Galbraith

Case No. BZA 6-72 - request for an exception to permit the installation of a used car lot on property zoned "LC" Light Commercial, generally located at the southeast corner of 25th and Arkansas

At your meeting of March 28, 1972, you considered the above captioned case. Your action was to deny the request.

We have been contacted by Richard Loyd, the applicant's attorney, who advises that the Waco-Finn Council has changed its position on this case. Inasmuch as they originally recommended that the case not be approved, and since they are now in favor of the request, Mr. Loyd has requested a rehearing. Based on this change in position, the secretary has granted a rehearing in accordance with Article VIII of the Rules and Regulation of the Board.

Attached are copies of Mr. Loyd's letter requesting the rehearing, Mr. Hendrix' letter stating the change in position of the Waco-Finn Council, the original Secretary's Report and your minutes previously considering this case.

JHG:gw

Attachments

cc: Mr. Richard A. Loyd, 200 East First Street 67202
Mr. Stan Hendrix, Chairman, Waco-Finn Model Cities Council,
2617 Wellington Place 67204

Kanew
Denise
Robert
Done
Richard Loyd (out gtr)
agrees to conditions
Charles Clinis
Steen Hendrix

SECRETARY'S REPORT
CASE NO. BZA 6-72

(Request for Rehearing)

APPLICANT: Dwain O. Kester, 2651 North Arkansas, Wichita, Kansas 67204

AGENT: Richard A. Loyd, 200 East First, Wichita, Kansas 67202

REQUEST: Exception pursuant to Section 2.12.590.C, Code of the City of Wichita, to permit the installation of a used car lot

GENERAL LOCATION: At the southeast corner of 25th and Arkansas

LAND USE: Subject property is occupied by a vacant service station; west is a service station; south and east is single family; north is single family, a grocery store and service station

ZONING: Subject property is zoned "LC" Light Commercial as are those properties to the north, west and south; east is "A" Two Family

JURISDICTION:

The Board has jurisdiction to consider this request under the provisions outlined under Section 2.12.590.C, Code of the City of Wichita. The Board may grant the exception provided the conditions set out in Section 28.04.183.2, Code of the City of Wichita, can be complied with.

COMMENTS BY THE SECRETARY:

K-96
The applicant is requesting an exception to the zoning ordinance to permit the establishment of a used car lot on property zoned "LC" Light Commercial. The site is presently occupied by a vacant service station and is located on a major street (Arkansas-Highway K-96) and provides for only 30 feet of half-street right-of-way whereas 50 feet is required. Half-street right-of-way for 25th Street is also inadequate, being only 25 feet, whereas 32 feet is required. The right-of-way for the alley adjacent on the east is only 9.4 feet in width, whereas 20 feet is the standard.

In his statement of justification, the applicant points out that he had a used car lot located at 2651 Arkansas in an "LC" zone for which an exception was approved by the Board of Zoning Appeals on February 28, 1967 (BZA Case No. 3-67). This property has been condemned for park purposes, and the applicant, through the aid of the Urban Renewal Agency has located the property contained in this application. #

The applicant has submitted a plot plan of subject property which was forwarded to the Traffic Engineering Division for review. Attached for the Board's information is a copy of a memo containing their comments on the proposed use and plan as submitted. It should be pointed out that since receiving the foregoing memo it has been determined that 25th Street east of Arkansas will serve only as a minor street which requires 32 feet of half-street right-of-way. It should also be pointed out that both the City Engineer and Planning Department concur in the recommendation that the first drive south of 25th Street should be closed.

RECOMMENDATION:

It is the recommendation of the Secretary that the application to permit the installation of a used car lot be approved subject to the following conditions:

1. Dedication by separate instrument of the west 20 feet and the north 7 feet of subject property for street purposes and the east 5.8 feet of subject property for alley purposes.
2. Any future structures placed or erected on subject property shall maintain a 35 foot setback from Arkansas Avenue and a 20 foot setback from 25th Street.
3. All storage and display areas, including all ingress and egress areas, shall be paved with concrete, asphalt, or other comparable material.
4. All lights shall be shielded to reflect or direct light away from adjacent property. No string-type lighting or banners shall be permitted.
5. No sign shall exceed 25 feet in height or be placed so as to project over any public right-of-way.
6. No sound projecting devices or loudspeakers shall be used so as to be heard outside of any structure.
7. No repair work shall be conducted except in an enclosed building and further provided that no body or fender work is done.
8. All parking areas shall have adequate guards to prevent the extension or overhanging of vehicles beyond property lines.

9. The areas shall be properly policed through inspections by the owner or operator for proper maintenance and removal of trash.
10. A six to eight foot high solid wall of masonry, architectural tile, staggered or louvered redwood or rough sawed cedar, shall be constructed along the new alley right-of-way line adjacent to the east.
11. The applicant shall contact the Department of Public Works and obtain a letter stating that satisfactory arrangements have been made for closure of the first drive south of 25th Street, a copy of which shall be submitted to the Secretary of the Board of Zoning Appeals.
12. The applicant shall submit revised copies of the plot plan to the Traffic Engineer for his approval. Said plan shall indicate the new street and alley rights-of-way lines required in Condition 1, setback lines as indicated in Condition 2, fencing required in Condition 10, the location and dimension of the required 10 customer and employee parking spaces and the closure of the curb return as required in Condition 11. Two copies of the approved plan shall be submitted to the Secretary of the Board of Zoning Appeals.
13. The applicant shall install all improvements required by the Board prior to the occupancy of the site for a used car sales lot.

BOARD OF ZONING APPEALS
Room 402 City Building Annex
104 South Main Street
Wichita, Kansas 67202

June 7, 1972

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 6-72

A request for rehearing has been filed on behalf of Dwain O. Kester, 2651 North Arkansas, Wichita, Kansas, pursuant to Section 2.12.590.C, Code of the City of Wichita, requesting an exception to permit the installation of a used car lot on property zoned "LC" Light Commercial, and legally described as follows:

Lots 181, 183, 185, 187, 189, 191, on Arkansas Avenue, Rosenthal's Subdivision of Meyers and Snyders Outlots to Wichita, Kansas. Generally located at the southeast corner of 25th and Arkansas.

This request was originally considered and denied by the Board on March 28, 1972; however, because of new evidence submitted by the applicant, a rehearing of this case has been granted in accordance with Article VIII of the Rules and Regulations of the Board.

This application has been assigned Case No. BZA 6-72, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, June 27, 1972, at 1:30 p.m., in Room 401 City Building Annex, 104 South Main Street, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

JACK H. GALBRAITH
Secretary

*6-7-72 mailed 20 notices for June 27, 1972
mailed 8 notices to Planning Commission*

May 31, 1972

TO: Jack Galbraith, Secretary Board of Zoning Appeals

FROM: Stan Hendrix, Chairman Waco Finn Council

SUBJECT: re-hearing on Case BZA-6-72

In reply to your letter concerning a re-hearing for case #BZA-6-72 the following action has taken place: Our zoning committee re-studied the matter and after careful deliberation this motion was approved by the council:

Waco Finn approve the "exception in zoning" on 25th and Arkansas - Case BZA-6-72.

The chairman of the council has been instructed to attend the meeting when Case BZA-6-72 is an agenda item.

Please notify me as to the time and place of the meeting.

vw

cc: Lora Swaim, Community Organization Coordinator
Mary Glazier, Community Organization Specialist



FORM 273-021

PAYMENT NOTICE

City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

Bldg & Elev.	Elec.	Elev. Insp.	Exam. Fees
Hse. Mvr.	Hse. Moving	Licse.	Mech.
Oil Well	Pav. Cuts	Plan.	Plbg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		

DESCRIPTION AMOUNT

Handwritten entry

Name

Address

Type Due Date

Comments:

Date By

June 1, 1972

Mr. Richard A. Loyd
200 East First Street
Wichita, Kansas 67202

Subject: Case No. BZA 6-72
Request for Rehearing

Dear Mr. Loyd:

As a result of your request that the above captioned case be reconsidered by the Board of Zoning Appeals based on new evidence, this is to advise you that we have discussed the apparent change of position of the Waco-Finn Model Cities Council with their Chairman. Mr. Hendrix advises that at a recent meeting, their Board took action to support your request rather than object as was their original position. Copies of their action and minutes are being forwarded to our office.

Therefore, based on this new evidence and in accordance with Article VIII of the Rules and Regulations of the Board "pertaining to re-hearings", this is to advise you that a rehearing shall be permitted. Also, in accordance with the Rules, it is necessary that the same procedure be followed as in the original application, including the re-advertising of the case for public hearing. Prior to our being able to re-advertise, it is necessary that you submit a new filing fee of \$50. Upon receipt of this fee by June 5, 1972, we can schedule this case for rehearing by the Board of Zoning Appeals for their regular meeting of June 27, 1972.

If you have any questions concerning this matter, please call.

Sincerely,

Jack H. Galbraith
Secretary

JHG:ls
cc Dwain O. Kester, 2651 North Arkansas 67204
Stan Hendrix, Chairman, Waco-Finn Model Cities Council,
2617 Wellington Place 67204

May 18, 1972

Mr. Stan Hendrix
Chairman
Waco-Finn Model Cities Council
2617 Wellington Place
Wichita, Kansas 67204

Re: Case No. BZA 6-72
Request for Rehearing of Exception Case

Dear Mr. Hendrix:

Attached is a copy of a letter received from Mr. Loyd requesting a rehearing on the above captioned BZA case that was denied by the Board on March 28, 1972.

Mr. Loyd indicates that there may have been a change in the position previously taken by the Waco-Finn Council as stated in a memorandum to me on March 24, 1972, which pointed out that the Council voted unanimously to disapprove the application.

Prior to being able to make a determination as to whether or not new evidence now exists which warrants a rehearing, I would appreciate your advising as to whether or not the Council has changed its position. I would appreciate a copy of any action taken or Minutes of the hearing.

Please call if you have any questions concerning this matter.

Sincerely,

Jack H. Galbraith
Secretary

JHG:gw
Enclosure

May 18, 1972

Mr. Richard A. Loyd
200 East First Street
Wichita, Kansas 67202

Subject: Case No. BZA 6-72
Request for Rehearing
of Exception Case

Dear Mr. Loyd:

As a result of your letter and our discussion by telephone concerning your understanding that the Waco-Finn Model Cities Council has changed its position concerning your recent request associated with the above captioned case, this is to advise you that I have written the Chairman of the Waco-Finn Council requesting a copy of their Minutes and whether or not they have changed their position.

Upon receipt of his reply, I will advise as to whether or not a rehearing can be permitted.

Sincerely,

Jack H. Galbraith
Secretary

JHG:gw

EMMET A. BLAES
ROETZEL JOCHEMS
ROBERT G. BRADEN
STAN E. WISDOM
BRUCE W. ZUERCHER
CHARLES M. CLINE
RICHARD A. LOYD
PAUL H. HUMANN

LAWRENCE MCDONOUGH
GERALD D. HAAG
ROBERT L. HEATH
TIMOTHY E. MCKEE
DANIEL R. GLICKMAN
EDWIN J. DREILING
LARRY H. HEEKER

JOCHEMS, SARGENT & BLAES
ATTORNEYS AT LAW
FARMERS & BANKERS BUILDING
200 EAST FIRST STREET
POST OFFICE BOX 2134
WICHITA, KANSAS 67201

(316) 262-6443

W. D. JOCHEMS
(1888-1960)
J. WIRTH SARGENT
(1894-1905)

J. FRANCIS HESSE
HARRY L. HOBSON
LEONARD A. LEVAND
COUNSEL

May 12, 1972

Mr. Jack H. Galbraith
Secretary
Board of Zoning Appeals
City Building Annex
104 South Main
Wichita, Kansas 67202

In re: Case No. BZA 6-72
Request for Exception
Dwain O. Kester

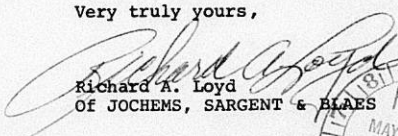
Dear Sir:

I have been advised that the Waco-Finn Model Cities Council has now changed its position concerning the application of Mr. Kester for the used car lot at the corner of 25th and Arkansas. You will recall that at the Board of Zoning Appeals meeting held March 28, 1972, the Waco-Finn Council advised the Board of Zoning Appeals that it was opposed to Mr. Kester's application. In my opinion the Board voted to deny the application based upon the Waco-Finn recommendation.

Since the Waco-Finn group has now changed its opinion and now supports the application, we feel that the new evidence, not formerly available at the time the original application of Mr. Kester was heard, consisting of the changed position of the Waco-Finn Council, constitutes grounds for a rehearing under the Regulations of the Board of Zoning Appeals.

Request is hereby made for a rehearing based upon the facts set out in this letter. It is my understanding that the Waco-Finn Council is mailing directly to the Board of Zoning Appeals a letter advising the Board of Zoning Appeals of its change of position and its support for Mr. Kester's application.

Very truly yours,


Richard A. Loyd
Of JOCHEMS, SARGENT & BLAES

RAL:rj



RESOLUTION NO. BZA 6-72

WHEREAS, Dwain O. Kester, 2651 North Arkansas, Wichita, Kansas, by Richard A. Loyd, 200 East First, Wichita, Kansas, requests an exception as provided in Section 2.12.590.C, Code of the City of Wichita, to permit the installation of a used car lot, on property zoned "IC" Light Commercial, and legally described as follows:

Lots 181, 183, 185, 187, 189, 191, on Arkansas Avenue, Rosenthal's Subdivision of Meyers and Snyders Outlots to Wichita, Kansas. Generally located at the southeast corner of 25th and Arkansas.

WHEREAS, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

WHEREAS, the Board of Zoning Appeals did, at the meeting of March 28, 1972, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for an exception under the provisions of Section 2.12.590.C, Code of the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has authority to permit the installation of a used car lot, on property zoned "IC" Light Commercial, subject to the conditions outlined in Section 28.04.183.2, Code of the City of Wichita; and

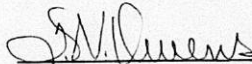
WHEREAS, the Board of Zoning Appeals has determined that the proposed use would not be compatible with existing and proposed development in the area, and would be in conflict with the efforts being made to upgrade the area.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, that this request for an exception to permit the installation of a used car lot, on property zoned "IC" Light Commercial, and legally described as follows:

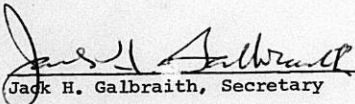
Lots 181, 183, 185, 187, 189, 191, on Arkansas Avenue, Rosenthal's Subdivision of Meyers and Snyders Outlots to Wichita, Kansas. Generally located at the southeast corner of 25th and Arkansas.

be denied.

ADOPTED AT WICHITA, KANSAS, this 28th day of March, 1972.


Thomas W. Owens, Vice-Chairman

ATTEST:


Jack H. Galbraith, Secretary

May 9, 1972

Mr. Richard A. Loyd
200 East First Street
Wichita, Kansas 67202

Subject: Case No. BZA 6-72
Request for Exception

Dear Mr. Loyd:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on March 28, 1972, in connection with your request for an exception to permit the installation of a used car lot, on property zoned "LC" Light Commercial, and generally located at the southeast corner of 25th and Arkansas.

This Resolution reflects the official action of the Board to deny your request. It is forwarded to you for your information and files.

If you have any questions concerning this matter, please call our office.

Sincerely,

Jack H. Galbraith
Secretary

JHG:ls

Enclosure

cc Dwain O. Kester, 2651 North Arkansas 67204
Robert Feldner, Superintendent of Central Inspection
Joe Donnelly, Central Inspection
Ralph Eberly, City Clerk

March 29, 1972

Mr. Charles M. Cline
200 East First Street
Wichita, Kansas 67202

Re: Case No. BEA 6-72
Request for Exception

Dear Mr. Cline:

At the regular meeting of the Board of Zoning Appeals on March 28, 1972, your request for an exception to permit the installation of a used car lot, on property zoned "LC" Light Commercial, and generally located at the southeast corner of 25th and Arkansas, was considered.

It was the action of the Board to deny this request.

A Resolution setting forth the official action of the Board is being prepared and you will be mailed a copy as soon as the signatures of the Chairman and Secretary have been obtained.

If you have any questions concerning this matter, please call.

Sincerely,

Jack H. Calbraith
Secretary

JHG:ls

cc Richard A. Loyd, 200 East First Street 67202
Dwain O. Kester, 2651 North Arkansas 67204
Stan Hendrix, Chairman, Waco-Finn Model Cities Council
2617 Wellington Place 67204
Robert Feldner, Superintendent of Central Inspection
Joe Donnelly, Central Inspection
Ralph Eberly, City Clerk

March 24, 1972

TO: Jack Galbraith, Secretary - Board of Zoning Appeals

FROM: Waco-Finn Council

SUBJECT: Case# BZA 6-72

This is to inform you that the Waco-Finn Council voted unanimously to disapprove the application filed by Dwain O. Kester, 2651 North Arkansas, Wichita, Kansas. The council voted to send Stan Hendrix to attend the meeting of the Board of Zoning Appeals on Tuesday, March 28, 1972.

gju



SECRETARY'S REPORT
CASE NO. BZA 6-72

APPLICANT: Dwain O. Kester, 2651 North Arkansas, Wichita, Kansas
67204

AGENT: Richard A. Loyd, 200 East First, Wichita, Kansas 67202

REQUEST: Exception pursuant to Section 2.12.590.C, Code of the
City of Wichita, to permit the installation of a used
car lot

GENERAL LOCATION: At the southeast corner of 25th and Arkansas

LAND USE: Subject property is occupied by a vacant service station;
west is a service station; south and east is single
family; north is single family, a grocery store and
service station

ZONING: Subject property is zoned "LC" Light Commercial as are
those properties to the north, west and south; east is
"A" Two Family

JURISDICTION:

The Board has jurisdiction to consider this request under the
provisions outlined under Section 2.12.590.C, Code of the City of
Wichita. The Board may grant the exception provided the conditions
set out in Section 28.04.183.2, Code of the City of Wichita, can
be complied with.

COMMENTS BY THE SECRETARY:

The applicant is requesting an exception to the zoning
ordinance to permit the establishment of a used car lot on
property zoned "LC" Light Commercial. The site is presently
occupied by a vacant service station and is located on a major
street (Arkansas-Highway K-96), and provides for only 30 feet
of half-street right-of-way whereas 50 feet is required. Half-
street right-of-way for 25th Street is also inadequate, being only
25 feet, whereas 32 feet is required. The right-of-way for the
alley adjacent on the east is only 9.4 feet in width, whereas 20
feet is the standard.

In his statement of justification, the applicant points out
that he had a used car lot located at 2651 Arkansas in an "LC"
zone for which an exception was approved by the Board of Zoning
Appeals on February 28, 1967 (BZA Case No. 3-67). This property
has been condemned for park purposes, and the applicant, through
the aid of the Urban Renewal Agency has located the property
contained in this application.

The applicant has submitted a plot plan of subject property which was forwarded to the Traffic Engineering Division for review. Attached for the Board's information is a copy of a memo containing their comments on the proposed use and plan as submitted. It should be pointed out that since receiving the foregoing memo it has been determined that 25th Street east of Arkansas will serve only as a minor street which requires 32 feet of half-street right-of-way. It should also be pointed out that both the City Engineer and Planning Department concur in the recommendation that the first drive south of 25th Street should be closed.

RECOMMENDATION:

It is the recommendation of the Secretary that the application to permit the installation of a used car lot be approved subject to the following conditions:

1. Dedication by separate instrument of the west 20 feet and the north 7 feet of subject property for street purposes and the east 5.8 feet of subject property for alley purposes.
2. Any future structures placed or erected on subject property shall maintain a 35 foot setback from Arkansas Avenue and a 20 foot setback from 25th Street.
3. All storage and display areas, including all ingress and egress areas, shall be paved with concrete, asphalt, or other comparable material.
4. All lights shall be shielded to reflect or direct light away from adjacent property. No string-type lighting or banners shall be permitted.
5. No sign shall exceed 25 feet in height or be placed so as to project over any public right-of-way.
6. No sound projecting devices or loudspeakers shall be used so as to be heard outside of any structure.
7. No repair work shall be conducted except in an enclosed building and further provided that no body or fender work is done.
8. All parking areas shall have adequate guards to prevent the extension or overhanging of vehicles beyond property lines.

9. The areas shall be properly policed through inspections by the owner or operator for proper maintenance and removal of trash.
10. A six to eight foot high solid wall of masonry, architectural tile, staggered or louvered redwood or rough sawed cedar, shall be constructed along the new alley right-of-way line adjacent to the east.
11. The applicant shall contact the Department of Public Works and obtain a letter stating that satisfactory arrangements have been made for closure of the first drive south of 25th Street, a copy of which shall be submitted to the Secretary of the Board of Zoning Appeals.
12. The applicant shall submit revised copies of the plot plan to the Traffic Engineer for his approval. Said plan shall indicate the new street and alley rights-of-way lines required in Condition 1, setback lines as indicated in Condition 2, fencing required in Condition 10, the location and dimension of the required 10 customer and employee parking spaces and the closure of the curb return as required in Condition 11. Two copies of the approved plan shall be submitted to the Secretary of the Board of Zoning Appeals.
13. The applicant shall install all improvements required by the Board prior to the occupancy of the site for a used car sales lot.

THE CITY OF WICHITA

OFFICE OF CITY TRAFFIC ENGINEER

DATE March 10, 1972



ON SAFETY
PHASE II

TO Lynn Shirkey, Junior Planner

FROM William G. McKinley, Assistant Traffic Engineer

SUBJECT Proposed Used Car Lot
Southeast Corner
Arkansas and 25th Street

The following comments are made with regard to 25th Street being reclassified from arterial street standards to collector street standards.

It would be the recommendation of the Traffic Engineering Division that the additional 20' of half street right-of-way on Arkansas Avenue (a major arterial street) should be required. If 25th Street is classified as a collector east of Arkansas, corresponding collector street right-of-way should be required on 25th Street.

Assuming that the land owner would like to have exposure of his used car lot on the northwest corner of said property, we would recommend the closure of the first drive south of 25th on Arkansas. Adequate off-street parking and circulation can be provided by using the south drive off Arkansas Avenue and the 25th Street exit.

It would be our recommendation that the off-street parking required for this site be located close to the existing building. All areas to be used for display of vehicles must be paved.

William G. McKinley
William G. McKinley
Assistant Traffic Engineer

WGM:cg

cc: R. W. Bruggeman, Director of Public Works



BOARD OF ZONING APPEALS
Room 402 City Building Annex
104 South Main Street
Wichita, Kansas 67202

March 8, 1972

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 6-72

An application has been filed by Dwain O. Kester, 2651 North Arkansas, Wichita, Kansas, pursuant to Section 2.12.590.C, Code of the City of Wichita, requesting an exception to permit the installation of a used car lot, on property zoned "LC" Light Commercial, and legally described as follows:

Lots 181, 183, 185, 187, 189, 191, on Arkansas Avenue, Rosenthal's Subdivision of Meyers and Snyders Outlots to Wichita, Kansas. Generally located at the southeast corner of 25th and Arkansas.

This application has been assigned Case No. BZA 6-72, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, March 28, 1972, at 1:30 p.m., in Room 401 City Building Annex, 104 South Main Street, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith
Secretary

19 notices mailed 3-8-72

EMMET A. BLAES
ROETZEL JOCHEMS
ROBERT G. BRADEN
STAN E. WISDOM
BRUCE W. ZUERCHER
CHARLES W. CLINE
RICHARD A. LOYD
PAUL H. HUMANN

LAWRENCE HEDONOUGH
GERALD D. HAAG
ROBERT L. HEATH
TIMOTHY E. MCKEE
DANIEL R. GLICKMAN
EDWIN J. DREILING
LARRY K. MECKER

JOCHEMS, SARGENT & BLAES

ATTORNEYS AT LAW

FARMERS & BANKERS BUILDING

200 EAST FIRST STREET

POST OFFICE BOX 2134

WICHITA, KANSAS 67201

(316) 262-8443

W. D. JOCHEMS
(1886-1960)
J. WIRTH SARGENT
(1894-1965)

J. FRANCIS HESSE
HARRY L. HOBSON
LEONARD A. LEVAND
COUNSEL

February 15, 1972

Board of Zoning Appeals
Room 402-City Building Annex
104 South Main
Wichita, Kansas 67202

In re: Lots 181, 183, 185, 187, 189,
191, on Arkansas Avenue,
Rosenthal's Subdivision of
Meyers and Snyders Outlots to
Wichita, Kansas

Gentlemen:

The applicant hereby requests a variance from the specific terms of Title 28, for the following reasons:

1. The subject property is zoned Light Commercial. It was the site of a gasoline station. The applicant had a used car lot located at 2651 North Arkansas. This property was condemned, and the applicant, through the aid of the Urban Renewal Agency, located subject property. The applicant does not intend to have a body shop or any other type of shop on the premises, but intends to use the premises solely for the purpose of selling cars. The requested variance arises from a condition which is unique to the property in question and is not ordinarily found in the same zone or district.

2. The granting of the permit for the variance will not affect the rights of adjacent property owners or residents. The applicant does intend to construct proper screening.

3. The strict application of the provisions of Title 28 will constitute unnecessary hardship upon the property owner, and will prevent proper utilization of the property involved in this request.



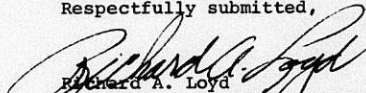
JOCHEMS, SARGENT & BLAES

Board of Zoning Appeals
February 15, 1972
Page 2

4. The variance will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

5. The granting of the variance desired will not be opposed to the general spirit and intent of Title 28.

Respectfully submitted,


Richard A. Loyd
of JOCHEMS, SARGENT & BLAES

RAL:rj

BOARD OF ZONING APPEALS

CASE NO. 6-72

CITY OF WICHITA, KANSAS

FILED 2-28-72

EXCEPTION
APPLICATION FOR VARIANCE

I. Name of Applicant DWAIN O. KESTER

Mailing Address 2651 North Arkansas 67204 Phone 838-6190

Name of Authorized Agent Richard A. Loyd
Of JOCHEMS, SARGENT & BLAES
200 East First Street

Mailing Address Wichita, Kansas 67202 Phone 262-8443

Relationship of applicant to property is that of Contract Buyer
(Owner, Tenant, Lessee, Other)

II. EXCEPTION
The variance requested is for a used car lot

for property located southeast corner of 25th and Arkansas,
Wichita, Kansas

and legally described as: Lots 181, 183, 185, 187, 189, 191, on
Arkansas Avenue, Rosenthal's Subdivision of Meyers & Snyders
Outlots to Wichita, Kansas

in the City of Wichita; and which is presently zoned LC.

III. The applicant herein, or his authorized agent, acknowledges:

- a. That he has received an instruction sheet concerning the filing and hearing of this matter;
- b. That he has been advised of the fee requirements established by Section 2.12.580 of the Code of the City of Wichita (Ordinance No. 24-606); and that the appropriate fee is herewith tendered;
- c. That he has been advised of his right to bring action in the District Court of Sedgwick County to appeal the decision of the Board.
- d. That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

Applicant (Contract)

Richard A. Loyd
Authorized Agent Richard A. Loyd

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 2:15 (a.m./p.m.), Feb 28 19 72 together with appropriate fee of \$50.00.



T9-402

Map # 5450

G. Lynn Shurkey
Signed


STATEMENT OF OWNERSHIP

STATE OF KANSAS)
) SS
 SEDGWICK COUNTY)

The undersigned duly bonded and qualified abstractor within and for the County and State aforesaid, does hereby certify:

That we have examined the records in the office of the Register of Deeds of Sedgwick County, Kansas, with reference to the ownership of the following property in Sedgwick County, Kansas, viz:

Property lying within a radius of 200 ft of:
 Lots 181, 183, 185, 187, 189, 191, on Arkansas Avenue, Rosenthal's Subdivision of Meyers & Snyders Outlots to Wichita, Kansas.


 Fidelity
 Title
 Company
 inc.

And from such examination find that the owners thereof are as set opposite the description of the property below, viz: (Addresses as given are furnished as a service and not certified.)

LOT	STREET	ADDITION	OWNER
165 & 167, 169 & 171, exc N 7' Lot 171,	Arkansas	ROSENTHAL'S SUB.	Walter L. Stauffer Betty L. Stauffer, ux 3535 W. 13th St. 67203
N 7' Lot 171, all 173 & 175,	"	<i>not 3-10-72 same address found</i>	Pedro S. Martinez Librada G. Martinez, ux 2532 Arkansas 67204
177, 179,	"		Delbert E. White Olive E. White, ux 2542 Arkansas 67204
181, 183, 185, 187, 189, 191,	"		W. H. Rex P. O. Box 334, Eldorado, Ks. 67042
166, 168, 170, 172,	Rosenthal		Clyde W. & Nina B. Watt, R.# 8, Box 600, ux Loveland, Fla. 33802
174 & 176,			Felix M. Martinez Manuela Martinez, ux 2531 Rosenthal 67204



LOT	STREET	ADDITION	OWNER
178 & 180,	Rosenthal	<u>ROSENTHAL'S SUB.</u>	Ernest Janzen Jo Ann Marie Janzen, ux No Address Available <i>not found</i>
182 & 184,	"		✓ Etheline F. Miller 1839 S. Main 67213
186, 188, 190, 192,	"		✓ First Federal S & L Assoc. 123 S. Market 67202
86 & 88,	Arkansas	<u>MC TAGGART'S</u>	✓ Jimmie W. Baum 2600 N. Arkansas 67204
90 & 92 & W 101' Lots 94 & 96,	"		○ Jimmie Wayne Baum 2600 N. Arkansas 67204
E 50' Lots 94 & 96,	"		✓ Benita Fay Boettcher 630 W. 25th St. N. 67204
85 & 87,	Jackson		✓ Oletis E. Stewart ✓ Vesta L. Stewart, ux 2611 Jackson 67204
89, 91, 93 & 95,	"		✓ Grady W. Roberts ✓ Reva May Roberts, ux 2601 Jackson 67204
2, 4, 6, 8, 10, 12,	Blk 4,	<u>MASCOT</u>	✓ Herman Oil Company, Inc. 2614 N. Market 67219
14 & 16,	Blk 4,		✓ A. J. Robinson ✓ Lucille M. Waddill, jt. 2801 E. Central 67214
18, 20, 22, 24,	Blk 4,		✓ F. A. & Elva Mae Coleman, No Address Available ux <i>1333 Sullivan Circle 67204</i>
26 & 28,	Blk 4,		✓ J. R. & LaVonne Harrington, 2511 Arkansas 67204 ux
Lot 1,		<u>SHEPHERD</u>	✓ Board of Park Commissioners City of Wichita
Lot 2, Block D,		<u>WOODLAND HEIGHTS</u>	○ Board of Park Commissioners City of Wichita

Dated at Wichita, Kansas this 11th day of
February, 1972 at 7:00 A. M.

FIDELITY TITLE COMPANY, INC.

By Elic M. Farrell
Sec, OEM

Tracer # 12464

FORM 223-021

PAYMENT NOTICE
City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

Bldg & Elev.	Elec.	Elev. Insp.	Exam. Fees
Hse. Mvr.	Hse. Moving	Licse.	Mech.
Oil Well	Pav. Cuts	Plan.	Plbg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		

DESCRIPTION	AMOUNT
<i>Plan</i>	<i>50</i>

Name *City of Wichita*

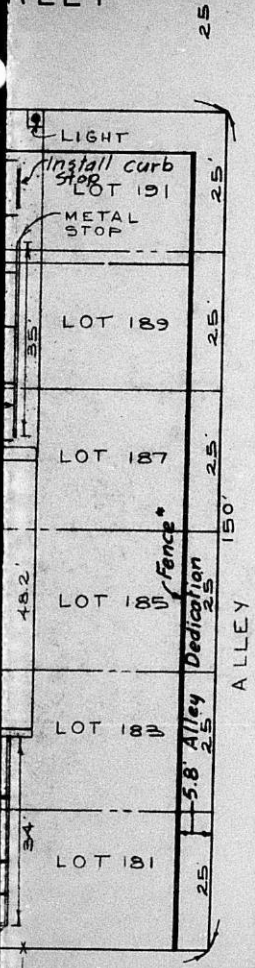
Address *1000 E. 16th*

Type *11-4/7103* Due Date

Comments:

Date *11-28-72* By *L*

REET



TRAFFIC ENGINEERING DIVISION APPROVED

Date 7/10/72

- (A) Parking barriers shall be installed at all locations that are adjacent to public property (so that vehicles will not obstruct public property) and have a minimum length of 6 feet and a minimum cross section of 4" x 4".
- (B) Stall lines shall be painted and 4" or greater in width.
- (C) Proper ingress and egress signs shall be installed on private property at the entrances and exits of the parking facility.

At such time as 25th is paved the max. curb cut shall be 52'.

FOR:
KESTER MOTORS



1" = 20'

SURVEY

LOT 181, 183, 185, 187, 189 AND 191 ON ARKANSAS AVE., ROSENTHAL'S SUBDIVISION OF MYERS-SNYDERS OUTLOTS TO WICHITA.

* Fence - 6' to 8' High - Constructed of solid wall masonry, or architectural tile, staggered or louvered redwood or rough sawed cedar
Closing of drive and installation of parking spaces shall be in accordance with City of Wichita specifications

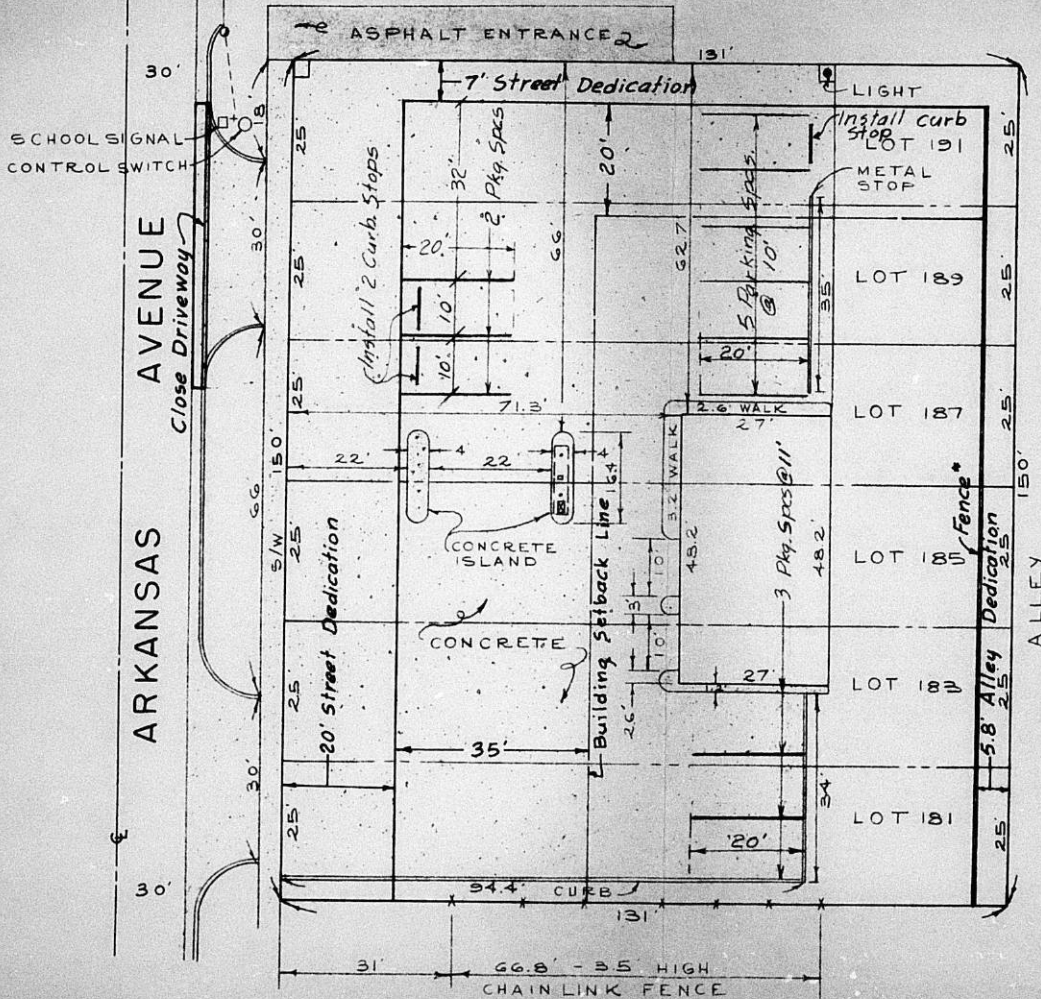


K. O. TAYLOR, P.E.
FEB. 23, 1972
Rev. 6-29-72 in accordance with BZA requirements

N.W. COR. SE 1/4 SEC 5-27-1E (IRON)

25TH STREET

ARKANSAS AVENUE



LOT 191
LOT 189
LOT 187
LOT 186
LOT 185
LOT 181

ALLEY

66.8' - 35' HIGH
CHAIN LINK FENCE

HEET

25'

25'

25'

25'

25'

25'

25'

150'

ALLEY

LIGHT
Install curb
stop
LOT 191
METAL
STOP

LOT 189

LOT 187

LOT 185

LOT 183

LOT 181

Fence*

Dedication
25'

5.8' Alley
25'

TRAFFIC ENGINEERING DIVISION APPROVED

Ron Johnson
Date 7/10/72

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* At each time as 25th is paved the max. curb cut shall be 52'!

FOR:
KESTER MOTORS



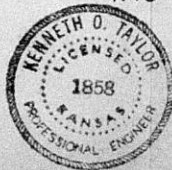
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